

AO 120 (Rev. 3/04)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	<b>REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK</b>
---	---

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Hartford, CT on the following  Patents or  Trademarks:

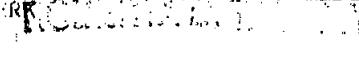
DOCKET NO. <u>3:08-cv-196(RNC)</u>	DATE FILED <u>2/5/2008</u>	U.S. DISTRICT COURT <u>Hartford, CT</u>			
PLAINTIFF  <u>KME Germany AG and KME America, INC</u>		DEFENDANT  <u>Marjan, Inc and SnAg, LLC</u>			
PATENT OR TRADEMARK NO.		DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK		
<u>1 6,924,044</u>			SEE Attached Complaint		
<u>2 7,147,933</u>					
<u>3 5,075,176</u>					
<u>4</u>					
<u>5</u>					

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY			
	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading			
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK		
<u>1</u>		See Attached Complaint		
<u>2</u>				
<u>3</u>				
<u>4</u>				
<u>5</u>				

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT	
--------------------	--

CLERK 	(BY) DEPUTY CLERK 	DATE <u>2/5/2008</u>
---	---	-------------------------

Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

KME GERMANY AG and KME AMERICA, INC., :  
Plaintiffs, : CIVIL ACTION NO.  
v. :  
MARJAN, INC. and SnAg, LLC, :  
Defendants. : FEBRUARY 5, 2008

**COMPLAINT FOR DECLARATORY JUDGMENT OF PATENT NONINFRINGEMENT AND INVALIDITY**

Plaintiffs, KME Germany AG (“KME Germany”) and KME America Inc. (“KME America”) (collectively “KME”), for their Complaint against defendants Marjan, Inc. (“Marjan”) and SnAg, LLC (“SnAg”), allege, upon knowledge as to their own acts and upon information and belief as to the acts of others, as follows:

**THE PARTIES**

1. KME Germany is a German corporation with a principal place of business at Klosterstrasse 29, 49074 Osnabrück, Germany.
2. KME America is an Illinois corporation having a place of business at 1000 Jorie Boulevard, Suite 111, Oak Brook, Illinois 60523. KME America is a wholly-owned subsidiary of KME Germany.
3. Marjan is a Connecticut corporation with a principal place of business at 44 Railroad Hill Street, Waterbury, Connecticut 06708.

4. SnAg is a Connecticut limited liability company with a principal place of business at 44 Railroad Hill Street, Waterbury, Connecticut 06708 and is an affiliate of Marjan.

5. Throughout many of the events described in this Complaint, Marjan and SnAg acted in concert and are referred to in that context as "Marjan/SnAg."

**JURISDICTION AND VENUE**

6. This action arises under the patent laws of the United States, Title 35 of the United States Code, in particular 35 U.S.C. §§ 271, 281, 283-285, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a), 1367, and 2201-02, as KME's request for a declaratory judgment of patent invalidity and noninfringement arises under the patent laws of the United States and the Declaratory Judgment Act.

7. This Court has personal jurisdiction over Marjan and SnAg because Marjan and SnAg have their principal place of business and regularly conduct business within this judicial district, as set forth herein.

8. Venue is proper under 28 U.S.C. §§ 1391(b), 1391(c), 1391(d), and 1400(b).

**COUNT I**

**DECLARATORY JUDGMENT OF '044 PATENT INVALIDITY**

9. United States Patent No. 6,924,044 ("the '044 patent"), entitled Tin-Silver Coatings, issued to Richard W. Strobel ("Strobel") on August 2, 2005 and is assigned to SnAg. The '044 patent is attached as Exhibit A.

10. United States Patent No. 7,147,933 ("the '933 patent"), entitled Tin-Silver Coatings, issued to Strobel on December 12, 2006 based on a continuation application of the patent application that issued as the '044 patent. The '933 patent has also been assigned to SnAg. The '933 patent is attached as Exhibit B.

11. Stolberger Metalwerke GmbH & Co. KG ("Stolberger") is a wholly-owned subsidiary of KME Germany. Stolberger, KME and Stolberger employee Hans W. Brinkmann have been pioneers in the development of tin-silver coatings, which are used for, among other things, coating electrical connectors and other parts. These tin-silver coatings are described in United States Patent No. 5,075,176 (the "'176 patent"), which issued to Brinkmann on December 24, 1991, and is now owned by KME through its Stolberger subsidiary. Stolberger also owns United States Patent No. 6,641,930, which issued on November 4, 2003.

12. KME sells tin-silver coatings in the United States under the trade name STOL®. One such coating is STOL® Sn 28M. STOL® Sn 28M is a tin-silver coating containing predominantly tin and a small percentage of silver in accordance with the teachings of the '176 patent.

13. On September 29, 2005, KME granted a license to PMX Industries, Inc. ("PMX") to manufacture, market and sell STOL® Sn 28M in the United States. The license granted to PMX includes non-exclusive rights under the '176 patent.

14. On May 9, 2006, William R. Crowe, a lawyer representing SnAg, wrote to KME claiming that SnAg's '044 patent was relevant to PMX's activities under its license from KME. In this letter, Crowe described SnAg as "an affiliate of Marjan, Inc." and recommended that KME meet with Marjan/SnAg to explore a possible agreement under which KME would be free to use its technology "without having to be concerned by potential infringement claims." The clear import of Crowe's letter was that the sale of STOL® branded tin-silver coatings in the United States, whether by KME or its licensee PMX, potentially infringed the '044 patent or the then-pending '933 patent.

15. In response to Crowe's letter, KME met and corresponded with Margan/SnAg on several occasions during the second half of 2006 and early 2007. During these meetings

and discussions, Marjan/SnAg negotiated terms under which it would license KME and PMX to practice the '044 patent and all related Marjan/SnAg patent applications and patents, including the '933 patent following its issuance in December 2006.

16. During these negotiations, Marjan/SnAg asserted that KME needed a license from Marjan/SnAg under the '044 and '933 patents to avoid potential infringement by KME in its sale of STOL® branded tin-silver coatings and in licensing its technology to PMX. All parties to the negotiations understood Marjan/SnAg's tacit position that without such a license from Marjan/SnAg, KME would be unable to continue selling its STOL® branded tin-silver coatings in the United States.

17. During a meeting in Osnabrück, Germany on February 26-27, 2007, the parties outlined an agreement in principle on a cross-licensing agreement that would have permitted KME to continue its operations in the United States.

18. For several months after the Osnabrück meeting, the parties continued to negotiate terms of a cross-licensing agreement consistent with the principles agreed upon during the Osnabrück meeting. By mid-2007, however, Marjan/SnAg began to stall and insist on new terms for a license of the '044 and '933 patents.

19. In November 2007, Marjan/SnAg repudiated the principles agreed upon during the Osnabrück meeting. At that time, Marjan/SnAg acknowledged to KME that soon after the Osnabrück meeting, Marjan/SnAg had concluded that it did not intend to come to a final licensing agreement with KME in accordance with the principles agreed upon during the Osnabrück meeting.

20. Marjan/SnAg's new terms for a license of its '044 and '933 patents are unacceptable to KME, and the parties are at an impasse.

21. KME is now in a position where it will be forced either to accept Marjan/SnAg's new terms or to risk alleged infringement of the '044 and '933 patents by continuing to sell and license its STOL® branded coatings, including STOL® Sn 28M, in the United States.

22. An actual and justiciable controversy exists between KME and Marjan/SnAg with respect to the '044 and '933 patents.

23. The '044 patent is invalid for failure to comply with requirements of Title 35 U.S.C., including one or more of §§ 101, 102, 103 and 112.

## COUNT II

### DECLARATORY JUDGMENT OF '044 PATENT NONINFRINGEMENT

24. KME repeats and re-alleges the allegations of paragraphs 1-22 above as if fully set forth herein.

25. KME has not infringed, and is not infringing, either directly or indirectly by inducement or contributory infringement, any claim of the '044 patent by making, using, offering to sell, or selling in the United States or importing into the United States, its STOL® branded tin-silver coatings or by licensing PMX to do the same.

26. Marjan/SnAg is barred by prosecution history estoppel from asserting infringement of one or more claims of the '044 patent.

## COUNT III

### DECLARATORY JUDGMENT OF '933 PATENT INVALIDITY

27. KME repeats and re-alleges the allegations of paragraphs 1-22 above as if fully set forth herein.

28. The '933 patent is invalid for failure to comply with requirements of Title 35 U.S.C., including one or more of §§ 101, 102, 103 and 112.

**COUNT IV**

**DECLARATORY JUDGMENT OF PATENT '933 NONINFRINGEMENT**

29. KME repeats and re-alleges the allegations of paragraphs 1-22 above as if fully set forth herein.

30. KME has not infringed, and is not infringing, either directly or indirectly by inducement or contributory infringement, any claim of the '933 patent by making, using, offering to sell or selling in the United States or importing into the United States, its tin-silver coatings, or by licensing PMX to do the same.

31. Marjan/SnAg is barred by prosecution history estoppel from asserting infringement of one or more claims of the '933 patent.

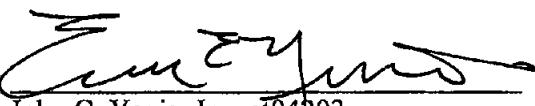
**PRAYER FOR RELIEF**

WHEREFORE, KME respectfully requests an entry of judgment from this Court:

- A. Declaring the '044 patent to be invalid (Count I);
- B. Declaring that KME has not infringed and is not infringing the '044 patent (Count II);
- C. Declaring the '933 patent to be invalid (Count III);
- D. Declaring that KME has not infringed and is not infringing the '933 patent (Count IV);
- E. Awarding KME its costs in connection with this action; and
- F. Awarding KME such other and further relief as this Court may deem to be just and proper.

PLAINTIFFS - KME GERMANY AG AND  
KME AMERICA, INC.

By

  
John C. Yavis, Jr. - ct04203

jyavis@murthalaw.com

Everett E. Newton - ct02508

enewton@murthalaw.com

Murtha Cullina LLP  
CityPlace I - 185 Asylum Street  
Hartford, Connecticut 06103-3469  
Telephone: (860) 240-6000  
Facsimile: (860) 240-6150

Of Counsel:

Richard M. Rosati  
Elizabeth A. Gardner  
Matt Berkowitz  
Kenyon & Kenyon LLP  
One Broadway  
New York, New York 10004  
Telephone: (212) 425-7200  
Facsimile: (212) 425-5288

Their Attorneys